IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2007

CORAM:

THE HON'BLE MR.JUSTICE CHOCKALINGAM

W.P.NO.11906 OF 2001
AND
WP.MP.NOS.18174 OF 2007

1.Smt.S.Indra
W/o S.Sakthivel
2.Miss.S.Kasthuri
3.Miss.S.Deepa
4.Mr.S.Muthukrishnan ...Petitioners

All are legal heirs of deceased S.Sakthivel

Vs.

1.The State of Tamil Nadu,
rep. by Secretary to Government,
Department of Rural Development,
Fort St.george, Chennai9-9.

2. The Commissioner of Municipal Administration,
Ezhilagam, Chennai-5.

3. The Regional Director,
Municipal Administration,
Race Course Colony, Madurai.

4. The Commissioner,
Sivakasi Municipality,
Sivakasi. ..Respondents

Petition filed under Article 226 of the Constutition of India praying for the issuance of a writ of Mandamus as stated therein.

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For Petitioner : Mr.P.Radhakrishnan

For Respondents : Mr.I.Paranthaman
Additional Govt.Pleader
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O R D E R

The petitioners have brought forth this writ petition seeking to issue a writ of mandamus for a direction directing the respondents to regularise the service of the deceased Sakthivel, the husband of the first petitioner and father of petitioners 2 to 4 to fix his basic pay at Rs.750/- per month as done in the case of Theni-Allinagaram Municipality vide G.O.No.43 dated 27.4.1993 of the Department of Municipal Administration and Water Supplies and to disburse the differential emoulments arising out of such fixation to the petitioner herein with applicable benefits.

2. Affidavit filed in support of the petition is perused.

3. The Court heard the learned counsel on either side.

4. The husband of the first petitioner was appointed as Gang Mazdoor in the Sivakasi Municipality, the fourth respondent by proceedings in Na.Ka.C1 No.8121/81 dated 23.11.1981. Ever since the appointment, he was in service continuously without any break for the past 17 years continuously and also the fourth respondent was maintaining the Service Register and apart from this, the fourth respondent also deducted from the salary towards the Provident Fund Account. He was in the service of the Municipality as a regular employee . The husband of the first petitioner expired on 11.2.1998.

5. The basic pay for Gang Mazdoor in the year 1981 at the time of appointment of the husband of the first petitioner was Rs.250/- Later in the year 1984 it was fixed at Rs.450/-. He was appointed as Gang Mazdoor in the year 1981. At the time of his appointment, his basic pay was fixed at Rs.18 per month instead of Rs.250/- per month. He made several representations to the respondents to fix the basic pay at Rs.450/-, but the said representations were not considered and till his death, the basic pay remained only at Rs.18 per month.

6. In the year 1983, the first respondent issued a notification providing for regularization of the employment of temporary employees in Municipalities who have completed 10 years of service and to fix their pay on par with that of the Office Assistants. Further, the basic pay for Gang Mazdoor was increased from Rs.450/- per month to Rs.750/- per month. However, the basic pay of the husband of the first petitioner has been wrongly fixed at Rs.18 per month and it was not at all re-fixed. Hence, he is eligible to get the revised pay from Rs.450/- in the year 1984 and later at Rs.750/- and thus it has got to be calculated. Under such

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circumstances the above writ petition has been brought forth for the relief stated as above.

7. Learned counsel for the respondent would submit that the proposals which were originally sent by the fourth respondent, the Commissioner, Sivakasi Muniipality is now pending in the hands of the third respondent and they are awaiting for the orders of this Court. Now the proposal has got to be forwarded to the second respondent.

8. After considering the facts and circumstances of the case, this Court is of the considered opinion that since the huband of the first petitioner was in service for more than two decades and he was expired on 11.2.1998, his services have got to be regularised for the said period for fixation of pay.

9. Under such circumstances, it has become necessary to issue a direction to the second respondent to place the recommendation of the fourth respondent before the State, the first respondent herein within a period of four weeks for necessary orders to be passed both on the question of regularization of the service of the huband of the first petitioner and also for fixation of pay and the first respondent is also directed to consider the said proposal on being forwarded, as expeditiously as possible, not later than three months there from, since the long delay is noticed.

10. With the above observation, the writ petition is disposed of . No costs. Consequently, WP.MP.No.18174 of 2007 is closed.

Vjy

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

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Fort St.George, Chennai9-9.

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Race Course Colony, Madurai.

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Sivakasi Municipality,
Sivakasi

+ 1 cc to Mr. P. Radhakrishnan, Advocate SR No. 55829

W.P.NO.11906 of 2001
AND
Connected M.P.

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